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## *Enrolled Bill Analysis of House Bill 5274*

Topic: Private Detectives License Act revisions  
Sponsor: Representative Barbara Farrah  
Co-sponsor: Representative Frank Accavitti

Committee: Regulatory Reform  
Date Introduced: October 9, 2007

Date Passed Senate: May 8, 2008  
Date Passed House: November 28, 2007  
Date Enrolled: May 13, 2008  
Date of Analysis: May 9, 2008

**Position: Support**

### **Problem/Background:**

In October of 2002, the Private Detective License Act was revised to assign the responsibility for administering the act from the Department of State Policy to the Department of Consumer and Industry Services, now Labor & Economic Growth. However, the general regulation of private investigation services in this state has not been updated for many years, and the law contains outdated requirements and terminology that need revision. The Michigan Council of Private Investigators, Inc. has requested that this statute be updated to meet current needs of the profession, and to maintain public protection as intended.

### **Description of Bill:**

- The bill changes the name of the act and the profession from Private detectives and investigators to "Professional Investigators."
- The bill revises language creating a specific exemption for insurance adjusters, bail bondsmen, and certified public accountants from the act, if they meet certain criteria.
- The definition of professional investigator means a person who engages in the investigation business for a fee or other remuneration and is employed to investigate crimes against the U.S., a state or territory, or any other person or legal entity, or the identity, habits, and conduct of a person, the location of lost or stolen property, and other defined activities.
- The definition of the investigation business includes updated terminology such as computer forensics, described as the computer prevention, detection, and removal of surreptitiously installed devices, designed for eavesdropping or observation, or both, the electronic tracking of the location of an individual or motor vehicle for purposes of detection or investigation, and the collection, investigation, analysis, and scientific examination of data held on, or retrieved from, computers, computer networks, computer storage media, electronic devices,

electronic storage media, or electronic networks, or any combination so that the information could be used as evidence.

- The bill provides authority for the department, in addition to local law enforcement agencies, to investigate unlicensed activity, and allows the attorney general or the local prosecuting attorney to prosecute such cases. It also permits appropriate civil or criminal action and the issuance of an injunction against any person or legal entity that has engaged or is about to engage in any activity regulated by the act without being appropriately licensed or exempt from licensure under the act.
- A new civil fine up to \$25,000.00 is added, which the courts may impose.
- The bill allows additional applicants for a license under the act to qualify by recognizing the applicants' experience from employment by any government executive, military, judicial or legislative agency or other public authority engaged in investigative or intelligence activities and being an intelligence specialist, parole agent or probation officer. Additional educational options such as baccalaureate or graduate degrees in security management and law are also available.
- Also under the bill, an active law enforcement officer is prohibited from being issued a new or renewal license or being employed by or authorized to operate as a professional investigator in the State of Michigan, except under certain specified circumstances.
- Reciprocal agreements would be allowed with other states to allow professional investigators in another state and in this state to cross state lines in the course of an investigation under specific circumstances.

#### **Arguments For:**

- The legislation provides long-needed revisions of definition and scope of practice for private detectives (now professional investigators).
- The provision that active duty police officers would not be allowed to be licensed and those who are currently licensed would be prohibited from renewing their license clarifies the legislation, because the privilege sections of the statute prohibit a licensee from revealing information obtained from a client, even if it includes information relating to the commission of a crime. That prohibition could create a conflict of interest for an active duty police officer.

#### **Arguments Against:**

- Some police officers will be restricted in the future from performing services that the law currently does not prohibit.
- Additional resources will be required of the Department of Labor & Economic growth without the ability to recoup some of the costs of investigation and pursuit of complaints, because there is no provision for administrative fines in the language of the bill.
- There may be protocol questions between local and state agencies with equal responsibility for investigating and prosecuting cases.
- Allowing licensees from another state to operate in Michigan without obtaining a license would be problematic if the department were to receive a complaint. Investigation and prosecution could be confusing and difficult.

#### **Supporters:**

Michigan Council of Private Investigators, Inc.

MSP Trooper's Association

**Opponents:**

None are known at this time.

**Fiscal/Economic Impact:**

**a) Department:**

Additional costs will be incurred to investigate unlicensed activity, which has not been done in the past, and there was ambiguity about whether that responsibility belonged with the Department of State Police. Without knowing how many cases are likely, or what these kinds of investigation would entail, the actual costs are unknown.

**Revenue:** None.

**b) State of Michigan:** Costs are indeterminate.

**c) Local Government:** Local police departments, prosecuting attorneys and courts may have increased costs to investigate and prosecute cases. The number and extent are unknown at this time.

**Administrative Rules Impact:**

Administrative rules would need to be updated. This process takes approximately one year. Because of the requirement for licensees to keep “adequate and complete records,” rulemaking will be necessary for adequate notice to licensees and for appropriate enforcement.